

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DIANE RICE**, on February 18, 2003 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Verdell Jackson, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Norman Ballantyne (D)
Rep. Bob Bergren (D)
Rep. Norma Bixby (D)
Rep. Carol Lambert (R)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Veronica Small-Eastman (D)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Brennan Ryan (D)
Rep. Frank Smith (D)

Members Absent: None.

Staff Present: Lisa Gallagher, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to material immediately following.

Committee Business Summary:

Hearing & Date Posted: HB 522, 2/5/2003; HB 594, 2/12/03
Executive Action: HB 522; HB 531

{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.3}

Motion: REP. PETERSON moved that the committee **CREATE A COMMITTEE BILL CONCERNING ALTERNATIVE GAME FARMS.**

Discussion:

REP. LAMBERT said that the committee needs to do this.

REP. PETERSON said that he supports this effort and the title of this bill is general enough that it can include money, compensation for the landowner, or a grandfather clause.

REP. THOMAS said that this is a way for the committee to right a wrong.

REP. STEINBEISSER said that the committee should vote for this bill because it will help those who were hurt by I-143.

REP. BIXBY said that a study bill could be done, and it could be taken up next session.

REP. JACKSON said that this is a critical issue in Montana, and there needs to be more research on chronic wasting disease (CWD).

Vote: Motion to create a COMMITTEE BILL **carried 15-1 with REP. BIXBY voting no, by roll call vote.**

HEARING ON HB 594

Sponsor: REPRESENTATIVE VERONICA SMALL-EASTMAN, HD 6, Lodge Grass

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 7 - 17.6}

REP. SMALL-EASTMAN said that what this bill will do is manage the state school lands. The state trust will be managed to the benefit of the schools. It will take away the formula to calculate the grazing lease rates, and reduce the lease time from ten years to five years. The sponsor handed out exhibits one and two and explained them. She also said that the state lands should be leased at the same rate that private property is leased.

EXHIBIT (agh36a01)

EXHIBIT (agh36a02)

{Tape: 1; Side: A; Approx. Time Counter: 14.2}

REP. SMITH came in

Proponents' Testimony: none

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 18.2 - 30}

John Bloomquist, Montana Stock Growers Association, gave a brief history of how the grazing rates were established. He said that the state land rates have been studied a lot and that this bill only looks at the grazing part of leasing state land. With the current conditions of payment the leasee pays no matter what, even if the land is not being used. By striking this provision there will not be any fairly established state land lease rates. Some of the state land is good, and some is not good, and that is the reason why state land cannot be compared with private land. Currently the formula for the leasing of state land is based on the price of beef. The grazing fee is the most studied fee of all, and it is the most defensible. If the lease rates are raised state land leases will be dropped. This will not raise more money for the school trust fund.

{Tape: 1; Side: B; Approx. Time Counter: 0.8 - 5.9}

Bud Clinch, Director of Department of Natural Resources and Conservation (DNRC), said that the DNRC manages state lands, and at first this bill looks attractive, but all the issues need to be considered. The current grazing fee is \$5.77, which is 7.54%. There is a big difference between state land lease and private property lease. The state does not provide a fence, water, etc. The current grazing fee is appropriate.

{Tape: 1; Side: B; Approx. Time Counter: 6 - 8.2}

John Youngberg, Montana Farm Bureau, said that if the lease time is shortened from ten years to five years the state will lose land lease deals. Decisions with large amounts of money are not made on a short term lease agreements. If the lease rates are changed the DNRC will have to develop a way to find the lease rates for every piece of property depending on its location.

Jim Courtney, Carter, County Commissioner, said that they look to the legislature to represent and not to state government. His concern is how will the ranchers finance themselves. He said this is comparing apples and oranges when it comes to state land and private land.

Tom Harwood, Toole, farmer, said that he finds these ideas offensive. The state does not provide any incentive to improve the land, and that is why the lease rates should not be raised.

Questions from Committee Members and Responses: none

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 15.4 - 22.1}

REP. SMALL-EASTMAN said that those who already lease state land have lease preferences. Most people will make improvements and establish their land within the first couple of years, and that is why the lease time would be shortened. It is up to the private lessee to maintain the land, it does not matter if it is state land or public land. Most leases land from two to five years. The lessee needs to meet the fair market value. The state schools could make \$21 million.

HEARING ON HB 522

Sponsor: REPRESENTATIVE RALPH LENHART, HD 2, Glendive

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 22.9 - 30}

REP. LENHART said that this bill is designed to protect the wheat growers. He read the title of the bill, and read the entire bill to the committee.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 4.4}

REP. LENHART explained what the amendment to this bill would do.
EXHIBIT (agh36a03)

Proponents' Testimony:

Brooks Dailey, Executive Director Montana Farmers Union, said that what this bill does is delay action on genetically-engineered wheat until all of the criteria that is in HB 522 is met. Agriculture is Montana's number one industry and it makes sense to protect this industry. Japan is Montana's prime wheat buyer and they have a zero tolerance for GMO's.

Helen Waller, Northern Plains Resource Council, submitted her written testimony.

EXHIBIT (agh36a04)

Helen Waller also submitted other information in regard to HB 522.

EXHIBIT (agh36a05)

Joe Hamill, Musselshell, submitted his written testimony.

EXHIBIT (agh36a06)

Dan Dutton, Carbon, submitted his written testimony.

EXHIBIT (agh36a07)

Dan Dutton also handed out a pamphlet titled "GMO Liability Threats for Farmers."

EXHIBIT (agh36a08)

Dan Teigen, handed out a study and explained it to the committee.

EXHIBIT (agh36a09)

Wade Sikorski, submitted his written testimony.

EXHIBIT (agh36a10)

Richard Thieltges, Chester, submitted his written testimony.

EXHIBIT (agh36a11)

{Tape: 2; Side: A; Approx. Time Counter: 26.2 - 30}

Dr. Scott Settle, Settle Ranch, submitted his written testimony.

EXHIBIT (agh36a12)

{Tape: 2; Side: B; Approx. Time Counter: 0 - 0.5}

Karen Fishman, Montana Catholic Conference, submitted her written testimony.

EXHIBIT (agh36a13)

Jim Barngrover, Montana Flour and Grain, read written testimony from Andre' Giles.

EXHIBIT (agh36a14)

Betty Whiting, Montana Association of Churches, handed out to the committee a flier titled, "Agriculture: The Land and Farm Crisis."

EXHIBIT (agh36a15)

Opponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 2.8 - 13.4}

Pam Langley, Montana AgriBusiness, said that this legislation is unconstitutional, because it violates the due process clause. Strict liability is only for ultra hazardous things. This bill creates a monopoly, and there was a similar bill that was voted down in North Dakota by the judiciary committee.

Pam Langley handed out to the committee information about bill provisions in regard to HB 522, and an article about Senator Max Baucus and Europe's GMO policy.

EXHIBIT (agh36a16)

EXHIBIT (agh36a17)

Lochiel Edwards, VP Montana Grain Growers Association, submitted his written testimony.

EXHIBIT (agh36a18)

Arlene Rice, President Montana AgriBusiness, said that biotech trait is tested by the Food and Drug Administration (FDA), Environmental Protection Agency (EPA), and the United States Department of Agriculture (USDA). This bill prohibits new technologies, while the neighboring states and Canada are embracing this. Sixty percent of the food that is eaten in the United States is genetically-engineered. This bill would prevent new crops. Arlene Rice handed out to the committee a picture of food and clothing that are genetically-engineered.

EXHIBIT (agh36a19)

John Youngberg, Montana Farm Bureau, said that the foreign markets are not accepting genetically-engineered wheat because it is not on the market. Currently Japan excepts genetically-engineered soy beans. With this bill Montana State University (MSU) will assume liability. This issue that needs to be addressed at a national level, not at the state level.

Dan Biggerstaff, Western Plant Breeders, said that there are allergy issues here, wheat is an allergen. Roundup ready wheat is not dangerous. People use Canola oil everyday, and it is man made. No technology is risk-free. Roundup ready wheat is not on the market yet, and there is no specific need for this bill.

Don Allen, Montana Trade Agriculture, said that they have spent time trying to remove the economic road blocks for Agriculture and this bill is a road block. He also said that this bill should be tabled.

Questions from Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Counter: 0 - 2.7}

REP. BALLANTYNE asked Pam Langley how cross-pollination could be prevented. **Pam Langley** said that cross-pollination can happen with any crop.

REP. BALLANTYNE asked Scott Settle, "How do we know this would affect insects, and in turn affect the ecosystem?" **Scott Settle** said that his concern is that we do not want to harm areas where the risks are irreversible. There is proof that things can spread to other species, for example HIV started out in monkeys and spread to humans.

REP. PETERSON asked Lochiel Edwards if he would describe the effort that went into SJ 8. **Lochiel Edwards** said that it was a very long process, but they found common ground in SJ 8. Senate Joint 8 does not go as far as this bill does. Both house bill 409 and 522 are special interest bills. The introduction of roundup ready wheat has already been pushed back from 1999 until 2005.

REP. BIXBY asked Scott Settle if there is a difference between MSU's research and GMO research. **Scott Settle** said, "Yes, there is."

REP. BIXBY asked Will Kissinger, Department of Agriculture, if there was anyway to protect those in Montana who do not want genetically-engineered crops. **Will Kissinger** said that those people can certify their organic crops.

REP. BIXBY asked Will Kissinger if he was sure that would protect those farmers. **Will Kissinger** said that there are no statutes in law currently that would provide protection against genetically-engineered wheat. **Director Peck** added that they are working hard at a national level, with the tri-national accord. He said that these are not easy issues, and they do not have all of the answers.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 2.3}

REP. ANDERSON asked Director Peck if there are any universities involved. **Director Peck** said that most wheat state universities are involved.

REP. ANDERSON asked REP. LENHART if it would be possible to hold this bill and get some information from the universities. **REP. LENHART** said that they are running up against a deadline, but he will try.

REP. THOMAS asked Director Peck if he sees a parallel between the country of origin labeling and GMO labeling. **Director Peck** said that he is concerned about that, and that we will be viewed differently.

REP. RICE asked Lochiel Edwards if he would like to comment on the corn exports chart that was handed out. **Lochiel Edwards** said that this is a trade war and they are using biotech to their advantage. The products are not being rejected because they are biotech products, they are being rejected because of fear of rejection for their own crops. This is all about trade.

REP. RICE asked Lochiel Edwards if a comparable example would be the beef that was hormone injected. **Lochiel Edwards** said that there is a parallel there.

REP. JACKSON asked **REP. LENHART** if he would like to address the issue of everything having risks, but putting all the liability on to the manufacturers. **REP. LENHART** said that this is not a perfect bill, but it is a liability bill, and it is being brought forward to protect Montana's number one crop.

Closing by Sponsor:

REP. LENHART said that someday Montana will produce genetically-engineered wheat, but until then we need to be careful. He also said that the workers should not be left holding the bag, especially a bag full of genetically-engineered wheat.

EXECUTIVE ACTION ON HB 531

Motion: **REP. LENHART** moved that **HB 531 DO PASS.**

Motion: **REP. ANDERSEN** moved that **HB 531 BE AMENDED.**

Discussion:

{Tape: 3; Side: B; Approx. Time Counter: 15.1 - 20.9}

Krista Lee Evans explained the amendments to the committee.
EXHIBIT(agh36a20)

REP. BERGREN asked **Krista Lee Evans** if the use of grazing land will still be allowed with this amendment. **Krista Lee Evans** said that in sub section 4 new section 4 it says that, "The Department shall issue." The land is taken into effect.

REP. ANDERSON asked Krista Lee Evans if this amendment takes into account ranchers who are not open for public hunts. **Krista Lee Evans** said that the codification is the important part of this amendment.

REP. ANDERSON asked **REP. HURWITZ** if he was comfortable with this amendment. **REP. HURWITZ** said, "Yes."

REP. LAMBERT asked Krista Lee Evans if this takes away kill permits. **Krista Lee Evans** said that this does not affect current law.

REP. SMALL-EASTMAN asked Krista Lee Evans if the Department has 36 hours to issue the permit, what is to be done before the Department gets there. **Krista Lee Evans** said that in order to get the permit the landowner would have to prove that it is for all of the sections in sub section 4. So initially you might have to wait for the elk to come.

REP. SMALL-EASTMAN asked **REP. HURWITZ** how to prevent the elk from coming onto the land if you are not out there right away. **REP. HURWITZ** said that the elk come in on the land in October and stay until the spring.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 2.2}

REP. WAITSCHIES asked Krista Lee Evans about the "shall issue" part of this bill. **Krista Lee Evans** said that if someone falls outside of sub section 4 then they probably will not be issued a permit.

REP. WAITSCHIES said that the shall issue offers no choice, and therefore the Department has no recourse. **Krista Lee Evans** said that is a policy decision that you have to make.

REP. PETERSON said that this amendment is attempting to address a timely response. It will force the Department to be responsive and that is the intent. The hourly cost of renting a helicopter is really expensive and no one is going to rent it unless it is needed.

REP. THOMAS asked Krista Lee Evans about page 3 line 28. **Krista Lee Evans** said that it is not part of the amendment. That it is current law.

REP. MALCOLM asked Krista Lee Evans about section 8 and his concern was with a bad operator not being shut down quick enough. **Krista Lee Evans** said that this is a policy decision.

REP. MALCOLM asked Krista Lee Evans why the Department issues the permit, but the commission takes it away. **Krista Lee Evans** said that this is a way to provide oversight to the Department.

Vote: Motion that **HB 531 BE AMENDED** carried 15-1 with **REP. WAITSCHIES** voting no, by voice vote.

REP. WAITSCHIES asked Krista Lee Evans if the words "fur-bearing animals" would be amended to say "no predator." **Krista Lee Evans** said that it does not fit within the title of the bill.

REP. SMITH said that with the price of furs being as low as it is, it would not be worth it to shoot animals. He also said that it is covered under state and federal law.

REP. MALCOLM asked if a FWP representative has to be in the helicopter. **Krista Lee Evans** said, "No."

Motion/Vote: **REP. BERGREN** moved that **HB 531 DO PASS AS AMENDED**. Motion carried 16-0, by voice vote.

EXECUTIVE ACTION ON HB 522

Motion: **REP. LENHART** moved that **HB 522 DO PASS**.

Motion: **REP. LENHART** moved that **HB 522 BE AMENDED**.

Discussion:

Krista Lee Evans said that all this amendment does is make the definition for genetically-engineered wheat consistent with HB 409.

Vote: Motion that **HB 522 BE AMENDED** carried 16-0, by voice vote.

Motion: **REP. LENHART** moved that **HB 522 DO PASS AS AMENDED**.

Discussion:

REP. WAITSCHIES said that being a wheat grower he knows this is not the way to go, and the liability should not be put on to the manufacturers.

REP. BALLANTYNE said that he wants to go on the record as supporting this because this bill would provide precautions. Currently there is no way of knowing where this will go or how to control it.

REP. MALCOLM said that he opposes this bill because strict liability is to far.

REP. SMITH said that he opposes this bill because North Dakota is ahead of Montana in Agriculture and then allow their farmers and to grow genetically-engineered wheat.

REP. STEINBEISSER said that he opposes this bill, because he has faith in the three agencies, EPA, FDA, and USDA, to manage this.

REP. BIXBY said that she supports this bill because the committee needs to take into consideration all Montanans, and the organic people need to be protected.

Motion/Vote: **REP. WAITSCHIES** moved that **HB 522 BE TABLED. Motion carried 12-4 with REPS. BALLANTYNE, BIXBY, LENHART, and SMALL-EASTMAN voting no**, by roll call vote.

Exhibit 21 was sent to the secretary and handed out to the Committee.

EXHIBIT (agh36a21)

ADJOURNMENT

Adjournment: 6:30 P.M.

REP. DIANE RICE, Chairman

LISA GALLAGHER, Secretary

DR/LG

EXHIBIT (agh36aad)